

payment is due, the date the Government's right to collect the debt accrued, and that Endowment regulations for salary offset have been approved by the Office of Personnel Management;

(iii) If collection must be made in installments, the Chairperson must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(iv) Advise the paying agency of the actions taken under 5 U.S.C. 5514(b) and provide the dates on which action was taken unless the employee has consented to salary offset in writing or signed a statement acknowledging receipt of procedures required by law. The written consent or acknowledgment must be sent to the paying agency;

(v) If the employee is in the process of separating, the Endowment must submit its debt claim to the paying agency as provided in this part. The paying agency must certify any amounts already collected, notify the employee, and send a copy of the certification and notice of the employee's separation to the creditor agency. If the paying agency is aware that the employee is entitled to Civil Service Retirement and Disability Fund or similar payments, it must certify to the agency responsible for making such payments the amount of the debt and that the provisions of this part have been followed; and

(vi) If the employee has already separated and all payments due from the paying agency have been paid, the Chairperson may request unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset.

(b) *The Endowment as the paying agency.* (1) Upon receipt of a properly certified debt claim from another agency, deductions will be scheduled to begin at the next established pay interval. The employee must receive written notice that the National Endowment for the Humanities has received a certified debt claim from the creditor agency, the amount of the debt, the date salary offset will begin, and the amount of the deduction(s). The National Endowment

for the Humanities shall not review the merits of the creditor agency's determination of the validity or the amount of the certified claim.

(2) If the employee transfers to another agency after the creditor agency has submitted its debt claim to the National Endowment for the Humanities and before the debt is collected completely, the National Endowment for the Humanities must certify the total amount collected. One copy of the certification must be furnished to the employee. A copy must be furnished the creditor agency with notice of the employee's transfer.

§ 1179.8 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Chairperson's notice of intention to offset as provided in § 1179.4. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period must not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Unliquidated debts may be offset against any financial payment due to a separated employee including but not limited to final salary payment or leave in accordance with 31 U.S.C. 3716.

§ 1179.9 Refunds.

(a) The National Endowment for the Humanities will refund promptly any amounts deducted to satisfy debts owed to the NEH when the debt is waived, found not owed to the NEH, or when directed by an administrative or judicial order.

(b) The creditor agency will promptly return any amounts deducted by NEH

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to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

(c) Unless required by law, refunds under this section shall not bear interest.

§ 1179.10 Statute of limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility

for discovery and collection of such debts.

§ 1179.11 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that employee may have under 5 U.S.C. 5514 or any other provision of contract law unless there are statutes or contract(s) to the contrary.

§ 1179.12 Interest, penalties, and administrative costs.

Charges may be assessed for interest, penalties, and administrative costs in accordance with the Federal Claims Collection Standards, 4 CFR 102.13.

SUBCHAPTER E—INSTITUTE OF MUSEUM SERVICES

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APPENDIX A TO PART 1180

AUTHORITY: 20 U.S.C. 961-968; Pub. L. 97-100, 95 Stat. 1414; Pub. L. 97-394, 96 Stat. 1994; 29 U.S.C. 794.

SOURCE: 48 FR 27728, June 17, 1983, unless otherwise noted.

Subpart A—General Operating
Support; Conservation Grants**§ 1180.1 Purpose of museum services program.**

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

§ 1180.2 Scope of this document.

This document establishes rules for the award of grants to museums from funds appropriated under the Museum Services Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicants must meet and criteria to be used in judging applications.

§ 1180.3 Definition of museum.

For the purpose of this part:

(a) *Museum means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:*

- (1) Owns or uses tangible objects, either animate or inanimate;
- (2) Cares for these objects; and
- (3) Exhibits them to the general public on a regular basis.

(i) An institution which exhibits objects to the general public for at least 120 days a year shall be deemed to meet this requirement.

(ii) An institution which exhibits objects by appointment may meet this requirement if it can establish, in light of the facts under all the relevant circumstances, that this method of exhibition does not unreasonably restrict the accessibility of the institution's exhibits to the general public.

(b) *Museum* includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

- (1) Aquariums and zoological parks;
- (2) Botanical gardens and arboreums;
- (3) Nature Centers;
- (4) Museums relating to art, history (including historic buildings), natural history, science and technology; and
- (5) Planetariums.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the fulltime equivalent, whether paid or unpaid primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution.

(d)(1) Except as set forth in paragraph (d)(2) of this section, an institution exhibits objects to the general public for the purposes of this section if such exhibition is a primary purpose of the institution.

(2) An institution which does not have as a primary purpose the exhibition of objects to the general public but which can demonstrate that it exhibits objects to the general public on a regular basis as a significant, separate, distinct, and continuing portion of its activities, and that it otherwise meets the requirements of this section,

may be determined to be a museum under this section. In order to establish its eligibility, such an institution must provide information regarding the following:

- (i) The number of staff members devoted to museum functions as described in paragraph (a) of this section.
- (ii) The period of time that such museum functions have been carried out by the institution over the course of the institution's history.
- (iii) Appropriate financial information for such functions presented separately from the financial information of the institution as a whole.
- (iv) The percentage of the institution's total space devoted to such museum functions.
- (v) Such other information as the Director requests.

(3) The Director uses the information furnished under paragraph (d)(2) of this section in making a determination regarding the eligibility of such an institution under this section.

(e) For the purpose of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

[48 FR 27728, June 17, 1983, as amended at 50 FR 27587, July 5, 1985]

§ 1180.4 Other definitions.

The following other definitions apply in this document:

Act means the Museum Services Act, Title II of the Arts, Humanities and Cultural Affairs Act of 1976, Public Law 94–462 (20 U.S.C. 961–968).

Board means the National Museum Services Board established under Section 204 of the Act.

Collection includes objects owned, used or loaned by a museum as well as those literary, archival and documentary resources specifically required for the study and interpretation of these objects.

Foundation means the National Foundation on the Arts and the Humanities.

Director means the Director of the Institute of Museum Services.

Grantee means the recipient of a grant under the Act.

Institute means the Institute of Museum Services (IMS) established under Section 203 of the Act.

Museum services means services provided by a museum, primarily exhibiting objects to the general public, and including but not limited to preserving and maintaining its collections, and providing educational and other programs to the public through the use of its collections and other resources.

§ 1180.5 Eligibility and burden of proof—Who may apply.

(a) A museum located in any of the fifty States of the Union, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Guam, or the District of Columbia may apply for a grant under the Act.

(b) No museum is eligible to apply for funding available under the Act unless it has provided museum services, including exhibiting objects to the general public on a regular basis, for at least two years prior to application.

(c) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(d) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(e) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

(f) In a given year, a museum that has not received two consecutive General Operating Support awards in the immediately preceding two-year cycles is eligible to apply for General Operating Support.

[50 FR 27588, July 5, 1985, as amended at 60 FR 63964, Dec. 13, 1995]

§ 1180.6 Related institutions.

(a) If two or more institutions are under the common control of one agency or institution or are otherwise organizationally related and apply for assistance under the Act, the Director determines under all the relevant circumstances whether they are separate museums for the purposes of establishing eligibility for assistance under these regulations. See §§ 1180.5 and 1180.9.

(b) IMS regards the following factors, among others, as showing that a related institution is a separate museum: